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Report of the International Criminal Court

Argentina, Australia, Austria, Belgium, Bosnia and Herzegovina, Costa Rica, Cyprus, Czechia, Denmark, Estonia, Finland, Germany, Guatemala, Iceland, Italy, Japan, Liechtenstein, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Paraguay, Samoa, Sao Tome and Principe, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia and Trinidad and Tobago: draft resolution

Report of the International Criminal Court

The General Assembly,

Recalling its resolution 71/253 of 23 December 2016 and all its previous relevant resolutions,

Recalling also that the Rome Statute of the International Criminal Court[1] reaffirms the purposes and principles of the Charter of the United Nations,

Recognizing the International Criminal Court as an independent permanent judicial institution and, in this regard, that the United Nations and the Court respect each other's status and mandate,

Reiterating the historic significance of the adoption of the Rome Statute,

Emphasizing that justice, especially transitional justice in conflict and post-conflict societies, is a fundamental building block of sustainable peace,

Convinced that ending impunity is essential for coming to terms with any past crimes committed and preventing such crimes in the future,

Acknowledging the fact that the International Criminal Court has achieved considerable progress in its investigations and judicial proceedings in various situations and cases which were referred to it by States parties to the Rome Statute and by the Security Council, and which the Prosecutor of the Court has initiated *proprio motu*, in accordance with the Rome Statute,

Recalling that effective and comprehensive cooperation and assistance in all aspects of its mandate by States, the United Nations and other international and

[1] United Nations, *Treaty Series*, vol. 2187, No. 38544.

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regional organizations remain essential for the International Criminal Court to carry out its activities,

Expressing its appreciation to the Secretary-General for providing effective and efficient assistance to the International Criminal Court in accordance with the Relationship Agreement between the United Nations and the International Criminal Court,[2]

Acknowledging the Relationship Agreement as approved by the General Assembly in its resolution 58/318 of 13 September 2004, including paragraph 3 of the resolution, with respect to the payment in full of expenses accruing to the United Nations as a result of the implementation of the Relationship Agreement,[3] which provides a framework for continued cooperation between the International Criminal Court and the United Nations, which enables, inter alia, facilitation by the United Nations of the Court's field activities, and encouraging the conclusion of supplementary arrangements and agreements, as necessary,

Noting the need for funding of expenses related to investigations or prosecutions of the International Criminal Court, including in connection with situations referred to the Court by the Security Council,

Welcoming the continuous support given by civil society to the International Criminal Court,

Stressing the importance that the Rome Statute accords to the rights and needs of victims, in particular their right to participate in judicial proceedings and to claim reparations, and emphasizing the importance of informing and involving victims and affected communities in order to give effect to the mandate of the International Criminal Court towards victims,

1. *Welcomes* the report of the International Criminal Court for 2016/17;[4]

2. *Also welcomes* the States that have become parties to the Rome Statute of the International Criminal Court, and calls upon all States in all regions of the world that are not yet parties to the Rome Statute to consider ratifying, accepting, approving or acceding to it without delay;

3. *Further welcomes* the States parties as well as States not parties to the Rome Statute that are parties to the Agreement on the Privileges and Immunities of the International Criminal Court,[5] and calls upon all States that have not yet done so to consider becoming parties to that Agreement;

4. *Notes* the recent ratifications and acceptances of the amendments adopted at the Review Conference of the Rome Statute, held in Kampala from 31 May to 11 June 2010;

5. *Underlines*, bearing in mind that in accordance with the Rome Statute the International Criminal Court is complementary to national criminal jurisdictions, that States need to adopt appropriate measures within their national legal systems for those crimes for which they are required under international law to exercise their responsibility to investigate and prosecute;

6. *Encourages* further efforts by the United Nations, other international and regional organizations and States, as well as civil society, to appropriately assist States, upon their request, in strengthening their domestic capacity to investigate

[2] A/58/874 and A/58/874/Add.1.
[3] Articles 10 and 13 of the Relationship Agreement.
[4] A/72/349 and A/72/349/Corr.3.
[5] United Nations, *Treaty Series*, vol. 2271, No. 40446.

and prosecute crimes, and in this regard underlines the importance of national ownership;

7. *Emphasizes* the importance of international cooperation and judicial assistance in conducting effective investigations and prosecutions;

8. *Acknowledges* the role of the International Criminal Court in a multilateral system that aims to end impunity, promote the rule of law, promote and encourage respect for human rights, achieve sustainable peace and further the development of nations, in accordance with international law and the purposes and principles of the Charter of the United Nations;

9. *Calls upon* States parties to the Rome Statute that have not yet done so to adopt national legislation to implement obligations emanating from the Rome Statute and to cooperate with the International Criminal Court in the exercise of its functions, and recalls the provision of technical assistance by States parties in this respect;

10. *Welcomes* the cooperation and assistance provided thus far to the International Criminal Court by States parties as well as States not parties, the United Nations and other international and regional organizations, and calls upon those States that are under an obligation to cooperate to provide such cooperation and assistance in the future, in particular with regard to arrest and surrender, the provision of evidence, the protection and relocation of victims and witnesses and the enforcement of sentences;

11. *Notes* the efforts of the Secretary-General in promoting cooperation between the United Nations and the International Criminal Court in accordance with the Relationship Agreement between the United Nations and the International Criminal Court, and also notes in this regard that the Office of Legal Affairs of the Secretariat has a specific role within the United Nations;

12. *Recalls* article 3 of the Relationship Agreement according to which, with a view to facilitating the effective discharge of their respective responsibilities, the United Nations and the International Criminal Court shall cooperate closely, whenever appropriate, with each other and consult each other on matters of mutual interest pursuant to the provisions of the Relationship Agreement and in conformity with the respective provisions of the Charter and the Rome Statute, and shall respect each other's status and mandate,[6] and requests the Secretary-General to continue to include information relevant to the implementation of article 3 of the Relationship Agreement in a report to be submitted to the General Assembly at its seventy-third session;

13. *Recalls* the guidance issued by the Secretary-General on contacts with persons who are the subject of arrest warrants or summonses issued by the International Criminal Court,[7] and in this regard takes note of the information included in the report of the Secretary-General on the implementation of article 3 of the Relationship Agreement;[8]

14. *Recalls* the Relationship Agreement, and notes that expenses related to investigations or prosecutions incurred by the International Criminal Court in connection with situations referred by the Security Council or otherwise continue to be borne exclusively by States parties to the Rome Statute;

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[6] Article 2, paragraph 3, of the Relationship Agreement.

[7] A/67/828-S/2013/210, annex.

[8] A/72/342.

15. *Emphasizes* the importance of cooperation with States that are not parties to the Rome Statute;

16. *Invites* regional organizations to consider concluding cooperation agreements with the International Criminal Court;

17. *Recalls* that, by virtue of article 12, paragraph 3, of the Rome Statute, if the acceptance of a State which is not a party to the Rome Statute is required under article 12, paragraph 2, of the Rome Statute, that State may, by declaration lodged with the Registrar of the International Criminal Court, accept the exercise of jurisdiction by the Court with respect to the crime in question;

18. *Urges* all States parties to take the interests, needs for assistance and mandate of the International Criminal Court into account when relevant matters are being discussed in the United Nations, and invites all other States to consider doing the same, as appropriate;

19. *Emphasizes* the importance of the full implementation of all aspects of the Relationship Agreement, which forms a framework for close cooperation between the two organizations and for consultation on matters of mutual interest pursuant to the provisions of that Agreement and in conformity with the respective provisions of the Charter and the Rome Statute, as well as the need for the Secretary-General to continue to inform the General Assembly at its seventy-third session of the expenses incurred and reimbursements received by the United Nations in connection with assistance provided to the International Criminal Court;

20. *Encourages* further dialogue between the United Nations and the International Criminal Court, and welcomes in this regard the increased interaction of the Security Council with the Court under various formats, including the holding of open debates on peace and justice and working methods, with a special focus on the role of the Court;

21. *Continues to welcome* the statement by the President of the Security Council of 12 February 2013[9] in which the Council reiterated its previous call regarding the importance of State cooperation with the International Criminal Court, in accordance with the respective obligations of States, and expressed its commitment to effective follow-up of Council decisions in this regard;

22. *Expresses its appreciation* for the work undertaken by the International Criminal Court liaison office to United Nations Headquarters, and encourages the Secretary-General to continue to work closely with that office;

23. *Encourages* States to contribute to the trust fund established for the benefit of victims of crimes within the jurisdiction of the International Criminal Court and the families of such victims, and acknowledges with appreciation contributions made to that trust fund thus far;

24. *Recalls* that, at the Review Conference of the Rome Statute of the International Criminal Court, which was convened and opened by the Secretary-General, States parties reaffirmed their commitment to the Rome Statute and its full implementation, as well as its universality and integrity, and that the Review Conference undertook a stocktaking exercise of international criminal justice, considering the impact of the Rome Statute on victims and affected communities, peace and justice, complementarity and cooperation, called for the strengthening of the enforcement of sentences, adopted amendments to the Rome Statute to expand the jurisdiction of the Court to cover three additional war crimes when committed in

[9] S/PRST/2013/2; see *Resolutions and Decisions of the Security Council, 1 August 2012–31 July 2013* (S/INF/68).

armed conflicts not of an international character, and adopted amendments to the Rome Statute to define the crime of aggression and to establish conditions under which the Court could exercise jurisdiction with respect to that crime;

25. *Acknowledges* the report of the Secretary-General on the work of the Organization;[10]

26. *Takes note* of the decision of the Assembly of States Parties to the Rome Statute of the International Criminal Court at its fifteenth session, while recalling that, according to article 112, paragraph 6, of the Rome Statute, the Assembly of States Parties shall meet at the seat of the Court or at United Nations Headquarters, to hold its sixteenth session in New York, looks forward to the sixteenth session, which is to be held from 4 to 14 December 2017, and requests the Secretary-General to provide the necessary services and facilities in accordance with the Relationship Agreement and resolution 58/318;

27. *Encourages* the widest possible participation of States in the Assembly of States Parties, invites States to contribute to the trust fund for the participation of least developed countries, and acknowledges with appreciation contributions made to that trust fund thus far;

28. *Invites* the International Criminal Court to submit, if it deems it appropriate, in accordance with article 6 of the Relationship Agreement, a report on its activities for 2017/18, for consideration by the General Assembly at its seventy-third session.

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[10] *Official Records of the General Assembly, Seventy-second Session, Supplement No. 1* (A/72/1).